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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,581	03/08/2002	Ian Trevor Dampney	000026.00030	6516

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EXAMINER

NGUYEN, VI X

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 05/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SA

Office Action Summary	Application No. 09/890,581	Applicant(s) DAMPNEY ET AL.	
	Examiner Victor X Nguyen	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-15 and 17-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-15 and 23-25 is/are allowed.
- 6) ☒ Claim(s) 1-9, 17-22, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 17-22 and 26-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Hurley et al (5,355,871).

With respect to claim 1, Hurley et al disclose in Figs. 1-4, an actuating mechanism for actuating a surgical tool, including: an actuating device (104) has an actuator surface (105) for placing the actuating device in an actuated position from a rest position to actuate a surgical tool (10), and where the actuator surface comprises a collapsible cage (see fig. 2) having a plurality of interdigitating actuating pads (items 107 can be characterized as interdigitating actuating pads).

As to claims 2-3, Hurley et al disclose in Figs. 2-3 and 5, each pad has an extending groove (209a) and the actuating device further comprises a plurality of extending guides (208) that is capable of engaging an inwardly extending groove of each pad, and where the cage (see fig. 3) is adapted such an inward movement of the cage causes the actuating device is in its actuated position.

As to claims 4-5, Hurley et al disclose in Figs. 2-3, the actuating mechanism further comprises a locking mechanism (105) that is adapted to lock the actuating device.

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As to claims 6-7, Hurley et al disclose in Fig. 2, the locking mechanism further comprises a release means (109), and where the actuating mechanism further comprises override means (112) for returning the actuating device from its actuated position to its rest position.

As to claims 8-9, Hurley et al disclose in Fig. 2, the actuating mechanism further comprises biasing means comprises a compression spring (113).

As to claims 17-19, Hurley et al disclose in Figs. 1-2, the surgical instrument comprises a handle (102), an elongate shaft (103) and a surgical tool (10) mounted on the shaft, and where the diameter of the cylindrical surface is approximately equal to the diameter of the handle.

As to claims 20-27, Hurley et al disclose in Fig. 3, the elongate shaft (103) comprises an actuator rod (12) slideably mounted within an outer tube (11), where the actuating device further comprises means (107) for translating the radial movement of the actuator surface into the longitudinal movement, and where the instrument further comprises a locking mechanism (105), where the handle is elongate to be held in a pen like grip (see fig. 3), and where the surgical tool comprises miniaturized scissors (see col. 2, lines 45-47)

Allowable Subject Matter

2. Claims 11-15 and 23-25 are allowed.

The following is a statement of reasons for allowance: None of the prior art of record, alone or in combination, discloses all of the limitations of claim 11 including, where a locking mechanism for locking a surgical tool includes an interengaging means comprising latching means and actuator means, where the latching means comprises a first stepped surface and the actuator means comprises a second stepped surface to lock the actuator means in any one of a plurality of actuated positions, and where the axial depth of each step of the second stepped

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surface of the actuator means is greater than the axial depth of each step of the first stepped surface of the latching means.

As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Response to Amendment

3. Applicant's arguments filed 3/1/2005 have been fully considered but they are not persuasive. In response to applicant's argument that the device of Hurley does not teach a collapsible cage having a plurality of interdigitating actuating pads. It is noted that figures 1 and 3 of Hurley can be clearly defined that a collapsible cage is located within the housing portion 104 where the cage has a plurality of interdigitating actuating pads (inherent feature 107). This interdigitating actuating pads would inherently grasp in the fingers and thumb T of the hand of a surgeon with the thumb T that is being in contact with the collapsible cage (fig. 1). Accordingly, the above noted reference is still considered to read on the claimed limitations of the claims noted.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X Nguyen whose telephone number is (571) 272-4699. The examiner can normally be reached on M-F (8-4.30 P.M).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Victor X Nguyen
Examiner
Art Unit 3731

Vn V
5/5/2005



JULIAN W. WOO
PRIMARY EXAMINER